

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

UNITED STATES OF AMERICA,	)	CASE NO. 1:06 CR 403
	)	
Plaintiff,	)	JUDGE DONALD C. NUGENT
	)	
v.	)	
	)	
LOUIS CARL JEMISON, III,	)	<u>MEMORANDUM OPINION</u>
	)	<u>AND ORDER</u>
Defendant.	)	

This matter comes before the Court upon Defendant’s motion for reduction of sentence based on the Sixth Circuit’s holding in *United States v. Blewett*, \_\_\_ F.3d \_\_\_, 2013 WL 2121945 (6<sup>th</sup> Cir., May 17, 2013). (ECF #127). On December 3, 2013, the Sixth Circuit decided and filed an *en banc* opinion reconsidering the prior decision. The *en banc* panel held in *United States v. Blewett*, \_\_\_ F.3d \_\_\_, 2013 WL 6231727, \*2-3 (6<sup>th</sup> Cir. Dec. 3, 2013) that the Fair Sentencing Act’s new mandatory minimums do not apply retroactively to defendants who were sentenced prior to the FSA’s effective date. This holding was found to be “[c]onsistent with a 142-year-old congressional presumption against applying reductions in criminal penalties to those already sentenced,” consistent with 1 U.S.C. § 109, consistent with the views of a unanimous Supreme Court as articulated in *Dorsey v. United States*, 132 S.Ct. 2321, 2332 (2012), “consistent with the decisions of every other court of appeals in the country, and consistent with dozens of [the Sixth Circuit’s] own decision.” Further, the Court held that the failure to apply the mandatory minimums retroactively does not violate the United States Constitution, and § 3582(c)(2) of the Sentencing Reform Act of 1984 does not provide a valid

means of circumventing this interpretation. As the Defendant in this case has sought relief based solely on the holding of the prior *Blewett* case, and that decision has been emphatically overturned by the *en banc* panel, Defendant is not entitled to the relief sought and his motion (ECF # 127) is hereby denied. IT IS SO ORDERED.

/s/ Donald C. Nugent  
DONALD C. NUGENT  
United States District Judge

DATED: January 6, 2014